

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Trung T. Doan

Serial No.: 09/652,713

Filed: August 31, 2000

For: CHEMICAL DISPENSING SYSTEM FOR
SEMICONDUCTOR WAFER PROCESSING

§
§ Group Art Unit: 1763
§
§ Examiner: Sylvia MacArthur
§
§ Atty. Docket: 93-0421.04
§
§
§
§

SHOWING OF FACTS AND RESPONSE TO THE
BOARD DECISION DATED JULY 29, 2003

Mail Stop Patent Application
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9/26/03
Date

Susan Jerome
Signature

Dear Sir:

Pursuant to 37 C.F.R. 1.196(b), Applicant herein presents facts not previously of record and respond to the Board's decision dated July 29, 2003.

I. Showing of facts

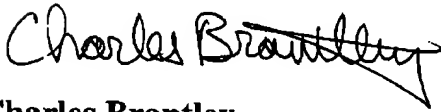
Applicant acknowledges that the showing of facts "may" include affidavits or declarations. (MPEP §1214.01.) However, in the interest of efficient prosecution, Applicant contends that the

The last three lines on page one should be as follows.

facts below are more than sufficient for the Examiner's determination that the claims satisfy the definiteness requirements of §112, ¶2.

A. MERRIAM WEBSTER'S COLLEGIATE DICTIONARY (10th ed.) defines "configure" as

to set up for operation esp. in a particular way



Charles Brantley
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DATE: October 23, 2003

PAGES: 20 including cover

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TO:

NAME: Examiner MacArthur

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FROM:

NAME: Charles Brantley
DEPT: Patent Department

PHONE: (208) 368-4557
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MESSAGE:

RE: Application Ser. No. 09/652,713

Per your phone call this morning, I am faxing a courtesy copy of the Showing of Facts and Response to the Board Decision dated July 29, 2003 that I mailed on 9/26/03. I note that my copy has truncated the last three lines of the first page. I'm not sure if the original I sent you has that problem, but in case it does, I have included the relevant text below. Also, in the interest of keeping the fax short, I have omitted the patents originally included in the appendices. Please let me know if you want a copy of any of those patents.

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(*Id.* at p. 242. A copy of the relevant page of MERRIAM WEBSTER is included in an appendix to this Response.)

B. The AMERICAN HERITAGE ELECTRONIC DICTIONARY (1992) defines "configure" as

[t]o design, arrange, set up, or shape

(A printout of the relevant definition from the ELECTRONIC DICTIONARY is included in an appendix to this Response.)

C. The patents listed below state as follows.

1. U.S. Pat. No. 6,311,365 by Dornier states

[w]hen, as is particularly preferred, the steam cleaning head has a delta shape with slightly rounded sides, steam pressure chambers are again arranged side by side along the edge portion and are followed radially on the inside by a suction region. This suction region is defined by a circular annular arrangement of further steam pressure chambers in the interior of which a suction region is again found.

(Dornier at col. 2, ln. 31-37.)

2. European Pat. No. 1238766 by Caspar states

[i]t should be understood that the amount of suction applied to the suction apertures depends on the shape and size of the apertures which preferably are round.

(Caspar at ¶[0013].)

3. U.S. Pat. No. 6,341,387 by Zars states

[a]n additional object of the present invention is that it may be installed as a "kit" on virtually any pool, whether new or existing.

The invention is intended to be self-contained and made of materials familiar in the art, preferably polyvinyl chloride (PVC) piping. The (sic) exact limiting quantity of suction is determined by the internal dimensions and arrangement of the piping and sump.

(Zars at col. 2, ln. 41-47.)

4. U.S. Pat. No. 4,938,239 by Theurer states

[t]his advantageous combination of the compressed air discharging nozzle and the suction inlet port results in a reinforced suction air flow because the path of this flow is exactly determined by the arrangement of the nozzle within the inlet port so that all the dirt is subjected to the downward pressure of the compressed air as well as the upward suction, which will cause a strong turbulence and detach even strongly adhering dirt particles from the ballast.

(Theurer at col. 3, ln. 30-38.)

5. U.S. Pat. No. 4,522,575 by Tischer states

the discharge pressure and suction pressure are easily determined design parameters . . .

(Tischer at col. 6, ln. 14-16.)

6. U.S. Pat. No. 3,939,065 by Einersson states

[t]he strength of the pressure and suction waves depends, besides by the design of the pulsation organs, mainly on the peripheral velocity of the drum relative to the peripheral velocity of the suspension in the liquid layers in question.

(Einersson at col. 2, ln. 41-45.)

(Copies of these patents are included in appendices to this Response.)

II. Argument

Claims 36-37 are pending.

Claims 36-37 are appealed.

Claims 36-37 are rejected by the Board based on a new ground – §112, ¶2.

Applicant requests the Examiner consider the definiteness of the pending claims.

The Board's decision dated July 29, 2003 reversed the Examiner's §102 rejection and raised a §112, ¶2 indefiniteness rejection. In doing so, the Board focused on independent claim 36's limitations concerning a splash controller that is (1) configured to draw a chemical toward itself; and (2) configured to generate a gas pressure. The Board specifically argued that *suction* applied *through* the splash controller, rather than the *configuration* of the splash controller, is what draws the chemical and generates the gas pressure. (Appeal Decision at p. 4-5.) Significantly, in support for this argument, the Board interpreted the term "configured" to mean "shaped." (*Id.* at p. 4.) As authority for this interpretation, the Board cited page 242 of MERRIAM WEBSTER'S COLLEGIATE DICTIONARY (10th ed.). (Appeal Decision at p. 4, footnote 1.) However, as cited above in part IA, that reference appears to offer a different definition. Specifically, the definition of the root word "configure" indicates that "configured" means "set up for operation." Moreover, the alternate source cited above in part IB indicates that the term "configured" is broad enough to encompass MERRIAM WEBSTER'S actual definition, the Board's stated definition, and more. Namely, the ELECTRONIC DICTIONARY's definition of the root word indicates that "configured" broadly means "designed, arranged, set up, or shaped."

Moreover, one of ordinary skill in the art would be aware that suction is a function of the design, arrangement, set up, or shape (i.e. configuration) of a relevant device, as demonstrated by the patents cited above in part IC. For example, U.S. Pat. No. 6,311,365 by Dornier teaches that a "suction region" is defined by an "arrangement" of pressure chambers. (Dornier at col. 2, ln. 35-36.) European Pat. No. 1238766 by Caspar indicates that "the amount of suction applied" depends on the "shape" of a device's apertures. (Caspar at ¶[0013].) U.S. Pat. No. 6,341,387 by Zars discloses that a "quantity of suction" is determined by the internal dimensions and "arrangement" of piping. (Zars at col. 2, ln. 45-47.) U.S. Pat. No. 4,938,239 by Theurer instructs one of ordinary skill in the art that the path of a "suction air flow" is determined by an

"arrangement" of a nozzle with an inlet port. (Theurer at col. 3, ln. 32-34.) U.S. Pat. No. 4,522,575 by Tischer discloses that "suction pressure" is a "design" parameter. (Tischer at col. 6, ln. 14-16.) U.S. Pat. No. 3,939,065 by Einersson indicates that the strength and press of "suction waves" depends in part upon the "design" of pulsation devices. (Einersson at col. 2, ln. 41-43.) Applicant contends that such knowledge is deemed to be imparted to one of ordinary skill in the art when considering the Specification's support for the definiteness of the terms at issue.

Further, the Specification in fact provides non-limiting support for designs/arrangements/set ups/shapes of splash controllers. Applicant cited the relevant portions in the Appeal Brief when summarizing the invention. (Appeal Brief at p. 2.) To reiterate, Applicant cited p. 3, ln. 18-19; p. 4, ln. 5-6; and FIGS. 1&2 (addressing vacuum port 18) for the general disclosure of a splash controller. For the specific limitation of a splash controller configured to draw the chemical toward itself, Applicant cited p. 4, ln. 3-5, 16-18 (addressing how the design/arrangement/set up/shape of vacuum port 18 allows application of suction to a particular area). For the specific limitation of a splash controller configured to generate the relevant gas pressure, Applicant cited p. 3, ln. 3-7, 16-18; and FIGS. 1&2. Applicant alerts the Examiner that p. 4, ln. 3-7, 16-18 are relevant to this limitation as well.

In addition, it is significant that the Board has acknowledged that suction draws the relevant chemical and generates the relevant gas pressure (and that the Specification discloses so). (See Appeal Decision at p. 5-6.)

Hence, because the Specification discloses a splash controller configured (i.e. designed, arranged, set up, or shaped) for suction; and suction draws the relevant chemical and generates the relevant gas pressure; then the Specification necessarily discloses a splash controller configured to draw the relevant chemical and generate the relevant gas pressure.

(Moreover, for reasons addressed in Appeal Brief, Hurtig cannot be interpreted as disclosing a component whose design, arrangement, set up, and/or shape meets claim 36's relevant configuration requirements. See Appeal Brief at p. 3-4.)

As a result, Applicant contends the claims meet §112's definiteness requirement and requests the Examiner's allowance of all of the pending claims. If there are any matters which

may be resolved or clarified through a telephone interview, the Examiner is requested to contact Applicant's undersigned attorney at the number indicated.

Respectfully submitted,

Charles B. Brantley II

Date: 9/26/03

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ATTORNEY FOR APPLICANT

Appendix 1: Definition of "configure" from MERRIAM WEBSTER'S COLLEGIATE DICTIONARY
(10th ed.)



Merriam-Webster's Collegiate[®] Dictionary

TENTH EDITION

Merriam-Webster, Incorporated
Springfield, Massachusetts, U.S.A.

242 confidence • confraternity

mind or a manner marked by easy coolness and freedom from uncertainty, diffidence, or embarrassment. CONFIDENCE stresses faith in oneself and one's powers without any suggestion of conceit or arrogance (the confidence that comes from long experience). ASSURANCE carries a stronger implication of certainty and may suggest arrogance or lack of objectivity in assessing one's own powers (handled the cross-examination with complete assurance). SELF-POSSESSION implies an ease or coolness under stress that reflects perfect self-control and command of one's powers (answered the insolent question with complete self-possession). APLOMB implies a manifest self-possession in trying or challenging situations (handled the reporters with great aplomb).

confidence *adj* (1849): of, relating to, or adept at swindling by false promises (a ~ game) (a ~ man)

confidence interval *n* (1934): a group of continuous or discrete adjacent values that is used to estimate a statistical parameter (as a mean or variance) and that tends to include the true value of the parameter a predetermined proportion of the time if the process of finding the group of values is repeated a number of times

confidence limits *n* pl (1939): the end points of a confidence interval

confident \kən-fə-dənt, -dənt/ *adj* [L. *confident*, *confidens*, fr. pp. of *confidere*] (1576) 1: characterized by assurance; esp.: SELF-RELIANT 2 *obs*: TRUSTFUL, CONFIDING 3 *a*: full of conviction: CERTAIN *b*

coercure *n* \kən-fə-dent(-shəl) *adj* (1759) 1: marked by intimacy or willingness to confide (a ~ tone) 2: PRIVATE SECRET (~ information) 3: entrusted with confidences (~ clerk) 4: containing information whose unauthorized disclosure could be prejudicial to the national interest ~ compare SECRET, TOP SECRET ~ **confidentiality** \-dənt(-shē-lə-tē) *n* ~ **confidentially** \-dənt(-shē-lə-tē) *adv*

confidingly \-dip-lē *adv* ~ **confidingness** *n*

configuration \kən-fī-gyā-rē-shən, -gā- *n* [LL. *configuratio*, *configuratio* similar formation, fr. L. *configurare* to form from or after, fr. *com-* + *figurare* to form, fr. *figura* figure] (1646) 1 *a*: relative arrangement of parts or elements: (1): SHAPE (2): contour of land (~ of the mountains) (3): functional arrangement (a small business computer system in its simplest ~) *b*: something (as a figure, contour, pattern, or apparatus) that results from a particular arrangement of parts or components *c*: the stable structural makeup of a chemical compound esp. with reference to the space relations of the constituent atoms 2: GESTALT (personality) ~ **configurationally** \-fī-gyā-rē-tiv, -fī-gā- *adv*

configure \kən-fī-gyər, esp. Brit. -fī-gār/ *vi* -ured; -ur-ing (1677) 2: to set up for operation esp. in a particular way (a fighter plane configured for the Malaysian air force)

confine \kən-fīn also kən- *n* [ME, fr. MF or L. MF *confines*, pl., fr. L. *confine* border, fr. neut. of *confinis* adjacent, fr. *com-* + *finis* end] (15c) 1 *pl* *a*: something (as borders or walls) that encloses (outside the ~s of the office or hospital — W. A. Nolen); also: something that restrains (escape from the ~s of soot and clutter — E. S. Muskie) *b*: SCOPE 3 (work within the ~s of a small group — Frank Newman) 2 *a*: *archaic*: RESTRICTION *b* *obs*: PRISON

confine \kən-fīn/ *vb* **confined**; **confining** *v* (1523) *archaic*: BORDER ~ *vt* 1 *a*: to hold within a location *b*: IMPRISON 2: to keep within limits (will ~ my remarks to one subject) *SYN* see LIMIT ~ **confiner** *n*

confined \kən-fīnd/ *adj* (1772): undergoing childbirth

confine-ment \kən-fīn-mənt/ *n* (1646): an act of confining; the state of being confined (solitary ~) *SYN* see LYING-IN

confirm \kən-fɔrm/ *vt* [ME, fr. OF *confirmare*, fr. L. *confirmare*, fr. *com-* + *firmare* to make firm, fr. *firmus* firm] (13c) 1: to give approval to: RATIFY 2: to make firm or firmer: STRENGTHEN 3: to administer the rite of confirmation to: 4: to give new assurance of the validity of: remove doubt about by authoritative act or indisputable fact ~ **confirmability** \-fər-mə-bil-ə-tē *n* ~ **confirmable** \-fər-mə-bəl/ *adj*

confirm \kən-fɔrm/ *vb* **confirmed**; **confirming** *v* (1523) *archaic*: BORDER ~ *vt* 1 *a*: to hold within a location *b*: IMPRISON 2: to keep within limits (will ~ my remarks to one subject) *SYN* see LIMIT ~ **confirmer** *n*

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Appendix 2: Definition from AMERICAN HERITAGE ELECTRONIC DICTIONARY (1992)

con·fig·ure (kən-fīg'yər) *tr.v.* **con·fig·ured, con·fig·ur·ing, con·fig·ures.** To design, arrange, set up, or shape with a view to specific applications or uses: *an internal security vehicle that was configured for rough terrain.* [Middle English *configuren*, from Old French *configure*, from Latin *cōnfigūrāre* : *com-*, *com-* + *figūrāre*, to form (from *figūra*, shape; see **dheigh-** below).]

10/23/03 THU 08:50 FAX 208 368 5606

Patent Dept.

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Appendix 3: U.S. Pat. No. 6,311,365 by Dornier

Appendix 4: European Pat. No. 1238766 by Caspar

Appendix 5: U.S. Pat. No. 6,341,387 by Zars

Appendix 6: U.S. Pat. No. 4,938,239 by Theurer

Appendix 7: U.S. Pat. No. 4,522,575 by Tischer

Appendix 8: U.S. Pat. No. 3,939,065 by Einersson

Please indicate receipt of the below identified papers:

☐ ___ page response to the Office Action dated _____☒ Other: fee transmittal (in duplicate),
response after board decision,
information disclosure statement,
form 1449 (in duplicate),
one article of reference,
postcardMailing date: 09/26/03☒ Certificate of Timely Mailing
☐ Express mail Certificate No. _____

Identification of Application:

☐ New Application ☐ Continuation ☐ Divisional ☐ CIPTitle: CHEMICAL DISPENSING SYSTEM FOR SEMICONDUCTOR WAFER PROCESSINGInventor: Trung T. DoanMicron File No: 93-0421.04Application Serial No. 09/652,713

Attorney/Agent: Charles B. Brantley

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Please indicate receipt of the below identified papers:

☐ ___ page response to the Office Action dated _____☒ Other: fee transmittal (in duplicate),
response after board decision,
information disclosure statement,
form 1449 (in duplicate),
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Attorney/Agent: Charles B. Brantley

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FEE TRANSMITTAL
for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT	(\$)	180
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Complete if Known

Application Number	09/652,713
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Filing Date	August 31, 2000
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First Named Inventor : Trung T. Doan

Examiner Name	Sylvia MacArthur
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Art Unit	1763
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Attorney Docket No. 93-0421.04

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:

Deposit Account Number	13-3092, Order No. 93-0421.04
------------------------------	-------------------------------

Deposit Account Name	Micron Technology, Inc.
----------------------------	-------------------------

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments
☐ Charge any additional fee(s) during the pendency of this application
☐ Charge fee(s) indicated below, except for the filing fee
to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	750	2001	375	Utility filing fee	
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$) 0

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

			Extra Claims		Fee from below		Fee Paid
Total Claims	2	-20 **	= 0	X	18	=	0
Independent Claims	1	-3 **	= 0	X		=	0
Multiple Dependent				X		=	0

Large Entity		Small Entity		
Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description
1202	111	2202	9	Claims in excess of 20
1201	81	2201	42	Independent claims in excess of 3
1203	210	2203	140	Multiple dependent claim, if not paid
1204	81	2204	42	** Reissue independent claims over original patent
1205	111	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)	(\$) 0
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*or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES


Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	2053	130	Non-English specification	
1012	2,520	2012	2,520	For filing a request for reexamination	
1804	920*	2004	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	2005	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1,510	2451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	2460	130	Petitions to the Commissioner	
1807	50	2807	50	Processing fee under 37 CFR 1.17 (q)	
1808	180	2808	180	Submission of Information Disclosure Stmt	180
8021	40	2021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	2802	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)	(\$) 180
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SUBMITTED BY

Complete (if applicable)					
Name (Print/Type)	Charles Brantley	Registration No. (Attorney/Agent)	38,086	Telephone	208-368-4557
Signature				Date	9/26/13

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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If you need assistance in completing this form, call 1-800-PTO-9199 (1-800-786-9199) and select option 1.